

Edward W. Swanson, SBN 159859
eswanson@swansonmcnamara.com
SWANSON & McNAMARA LLP
300 Montgomery Street, Suite 1100
San Francisco, California 94104
Telephone: (415) 477-3800
Facsimile: (415) 477-9010

Attorney for ROBERT G. TUNNELL, JR.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT G. TUNNELL, JR.,

Defendant.

Case No. CR. 3:11-00463 CRB

**STIPULATION AND ~~PROPOSED~~
ORDER CONTINUING SENTENCING
HEARING FROM APRIL 18, 2012 TO
APRIL 20, 2012**

For the reasons set forth below, the parties and the Probation Officer respectfully request that sentencing in this matter be continued from April 18, 2012 at 2:15 p.m., to April 20, 2012 at 3:00 p.m., or, in the alternative, to April 20, 2012 at 9:00 a.m. Defendant Robert G. Tunnell, Jr., by and through his counsel, Edward W. Swanson, and the United States, by and through Assistant United States Attorney W. Douglas Sprague, hereby stipulate and agree as follows:

1 1. On November 22, 2012, following the entry of a guilty plea by the defendant, the
2 Court set a sentencing date of February 22, 2012.

3 2. On February 10, 2012, the parties moved the Court to continue the sentencing
4 date to April 18, 2012 at 2:15 p.m. The continuance was requested to accommodate defense
5 counsel's trial schedule, as well as the Probation Officer's schedule. At the time the continuance
6 was requested, defense counsel was engaged in a trial before this court in *United States v.*
7 *Herholz and Arnold* (No. CR. 10-0642). The trial was scheduled to last through February,
8 following which defense counsel was scheduled to be in trial in San Francisco Superior Court for
9 two to three weeks beginning February 27, 2012, and then in trial in Fresno Superior Court
10 beginning March 26, 2012.
11

12 3. At the time of the February 10, 2012 request to move the sentencing date, defense
13 counsel believed he would be able to complete trial in all of the matters referenced above before
14 the proposed April 18, 2012 sentencing date.
15

16 4. Since the date of that request, however, defense counsel has begun trial in *People*
17 *of the State of California v. Tannen Soojian*, (Cal. Sup. Ct. No. F04902626). On March 26,
18 2012, pre-trial motions hearings in the matter of the *People of the State of California v. Tannen*
19 *Soojian*, (Cal. Sup. Ct. No. F04902626) began in Fresno Superior Court. The start of the trial in
20 that case was delayed due to the unanticipated need to conduct evidentiary hearings on motions
21 *in limine*. Jury selection began on Monday, April 9, and is still underway. Other developments
22 in the case have caused defense counsel to expect trial to last between 5 and 6 weeks.
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25 5. Because of defense counsel's trial schedule he is unavailable to proceed with
26 sentencing on April 18, 2012.
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28

8. Both Assistant United States Attorney W. Douglas Sprague and United States Probation Officer Catheryn Grier are available at 9:00 a.m. and 3:00 p.m. on April 20.

Dated: April 11, 2012

Dated: April 11, 2012

/s /

W. Douglas Sprague
Assistant United States Attorney

~~PROPOSED~~ ORDER CONTINUING SENTENCING HEARING

This matter having come before me pursuant to stipulation of the parties and good cause appearing therefore,

IT IS SO ORDERED THAT: the sentencing hearing now set for April 18, 2012 at 2:15 p.m. is vacated and the matter is set for sentencing on April 20, 2012 at 3:00 p.m..

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: April 12, 2012



Hon. CHARLES R. BREYER
United States District Court Judge